

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

GERALD JONES,

Plaintiff,

vs.

RAKESH CHANDRA,

Defendants.

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Civil Case No. 02-1161-JPG

ORDER

FRAZIER, Magistrate Judge:

Before the Court are pending motions. Ruling on the motion to consolidate this case with Case No. 03-56-DRH (Doc. No. 36) is RESERVED pending the outcome of dispositive motions.

Plaintiff has moved to stay the September 15, 2005, recommendation that defendant Rhoades' partial motion to dismiss be granted. Plaintiff believes he can gather and present additional information supporting his opposition to Rhoades' motion, which pertains to plaintiff's efforts to exhaust administrative remedies regarding Rhoades' conduct in June and December, 2001.

Defendant Rhoades filed his partial motion to dismiss on July 15, 2005. Plaintiff filed two responses and did not seek additional time to further supplement those responses before ruling on Rhoades' motion was recommended on September 15, 2005. Plaintiff received notice of the recommendation and filed a timely objection. Further delay in ruling on Rhoades' motion is unwarranted based on speculation regarding further argument. Accordingly, plaintiff's motion to stay the recommendation (part of Doc. No. 55) is DENIED without prejudice to plaintiff's right to seek reconsideration of the final ruling on Rhoades' motion, which may be appropriate if the motion is granted and plaintiff obtains new information showing that the ruling is based on a significant error of fact. *See Rothwell Cotton Co. v. Rosenthal*, 827 F.2d 246, 251 (7th Cir.1987).

Also pending is plaintiff's motion to produce copies of grievances (part of Doc. No. 55). Federal and local rules provide that discovery requests shall be served upon other counsel or parties, but shall not be filed until they are used in the proceeding or the Court orders filing. Fed. R. Civ. P. 5(d); Local Rule 26.1(b). Because plaintiff's motion to produce copies of grievances was filed in violation of these Rules, this motion (pt. of Doc. No. 55) is ORDERED STRICKEN.

Plaintiff's requests for copies or another remedy regarding mail sent by defense counsel (pt. of Doc. No. 63) are MOOT – mail returned to attorney Powell has been resent (Doc. No. 66).

SO ORDERED: December 2, 2005.

S/Philip M. Frazier
PHILIP M. FRAZIER
UNITED STATES MAGISTRATE JUDGE